

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

TROY COULSTON v. CITY OF PHILADELPHIA, et al.	CIVIL ACTION NO. 23-4077
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ORDER RE: MOTION TO DISMISS

AND NOW, this 23rd day of September, 2024, upon consideration of Defendant David Desiderio's Motion to Dismiss Plaintiff's Second Amended Complaint (ECF 73), Plaintiff's response thereto (ECF 81), and Defendant Desiderio's reply (ECF 88), for the reasons stated in the foregoing memorandum, it is hereby **ORDERED** that the Motion is **GRANTED IN PART**.¹

1. The Motion is **GRANTED** with respect to Count 5 of the Second Amended Complaint for malicious prosecution in violation of the laws of the Commonwealth of Pennsylvania, which is **DISMISSED with prejudice**.
2. The Motion is **DENIED** with respect to Count 1 for fabrication of evidence in violation of the Fourteenth Amendment, Count 2 for malicious prosecution in violation of the Fourth and/or Fourteenth Amendments, and Count 3 for deliberate suppression of exculpatory evidence in violation of the Fourteenth Amendment.

BY THE COURT:

s/ Michael M. Baylson

MICHAEL M. BAYLSON, J.

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¹ The City of Philadelphia and officers Bentham, Harris, and Royds have also moved to dismiss the Complaint. This Order addresses only Defendant Desiderio's Motion.